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BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER
Chairman
WILLIAM A. MUNDELL
Commissioner
MIKE GLEASON
Commissioner
KRISTIN K. MAYES
Commissioner
GARY PIERCE
Commissioner

Arizona Corporation Commission
DOCKETED

FEB 20 2007

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IN THE MATTER OF THE APPLICATION OF
BOWIE POWER STATION, LLC, IN
CONFORMANCE WITH THE REQUIREMENTS OF
ARIZONA REVISED STATUTES 40-360.03 AND 40-
360.06, FOR TWO CERTIFICATES OF
ENVIRONMENTAL COMPATIBILITY
AUTHORIZING CONSTRUCTION OF A 1,000
MEGAWATT NATURAL GAS-FIRED, COMBINED-
CYCLE POWER PLANT, 345kV AND 345kV/230kV
SWITCHYARDS, 345kV DOUBLE-
CIRCUIT TRANSMISSION LINE AND 230kV
INTERCONNECTION AND RELATED FACILITIES
IN COCHISE AND GRAHAM COUNTIES,
ARIZONA. THE PROPOSED POWER STATION
SITE IS LOCATED IN SECTIONS 28 AND 29,
TOWNSHIP 12 SOUTH, RANGE 28 EAST, AND THE
PROPOSED TRANSMISSION LINE ROUTE IS
LOCATED IN TOWNSHIP 12 SOUTH, RANGE 28
EAST, TOWNSHIP 11 SOUTH, RANGE 28 EAST,
TOWNSHIP 11 SOUTH, RANGE 27 EAST, AND
TOWNSHIP 11 SOUTH, RANGE 26 EAST, GILA
AND SALT RIVER BASE AND MERIDIAN

DOCKET NO. L-00000BB-01-0118-00000

DECISION NO. 69339ORDER

Open Meeting
February 13 and 14, 2007
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the
Arizona Corporation Commission ("Commission") finds, concludes and orders that:

FINDINGS OF FACT

1. On July 27, 2001, Bowie Power Station, LLC ("Bowie" or "Company") filed with
the Arizona Corporation Commission ("Commission") an application for two Certificates of

1 Environmental Compatibility ("CEC"). Decision No. 64625 authorized the construction of a 1,000
2 megawatt ("MW") natural gas-fired, combined-cycle power plant. Decision No. 64626 authorized
3 the construction of the 345 kV and 345 kV/230 kV switchyards, a 345 kV double-circuit
4 transmission line and a 230 kV interconnection and related facilities in Cochise and Graham
5 Counties, Arizona. The Commission granted the two CECs on March 7, 2002, subject to a set of
6 conditions.

7 2. On August 18, 2006, the Company filed a Request For Extension of the CECs
8 ("Extension") approved in Decision Nos. 64625 and 64626. The Extension is based on Condition
9 No. 22 in Decision No. 64625 and Condition No. 10 in Decision No. 64626, which allow that the
10 Applicant may request an extension of the CEC before the time limitation to complete
11 construction.

12 3. This Extension requests that the expiration date for the construction of the power
13 plant and transmission line be extended from March 7, 2007 until (i) December 31, 2008 or (ii)
14 that date upon which the Commission issues a final non-appealable decision in a separate
15 proceeding regarding whether the CECs granted under Decision Nos. 64625 and 64626 should be
16 altered or amended, whichever is sooner. The Company anticipates this separate proceeding as a
17 result of its plans to file a request pursuant to Arizona Revised Statute ("A.R.S.") § 40-252 to
18 amend Decision No. 64625 at which time the Company would present updated environmental
19 impact data for the Integrated Gasification Combined Cycle ("IGCC") plant that the Company is
20 now considering constructing in place of the natural gas-fired combined cycle power plant.

21 4. In its Extension filed on August 18, 2006, the Company had anticipated filing the
22 request for the A.R.S. § 40-252 proceeding "within the next few weeks." However, the
23 Company's present position is that it now plans to file such a request with the Commission
24 sometime in 2007. The Company plans to file a new application, which would propose to amend
25 the original CEC and allow for the construction of a power plant with a new technology, such as
26 IGCC, with an output of 560 MW in lieu of the approved 1,000 MW gas-fired combined cycle
27 plant at the same location.

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1 5. In the request for the Extension, the Company stated that it is considering
2 modifying the design and technology of the approved plant from a 1,000 MW combined cycle
3 plant (Decision No. 64625) to a 560 MW IGCC plant, based on the unrealized generation market
4 development and uncertainty and volatility in gas prices. However, the Company has not totally
5 abandoned the 1,000 MW gas-fired combined cycle plant.

6 6. In subsequent discussions, Staff was informed that the Company is not planning to
7 request a new CEC for the IGCC plant, but instead will request amendment of the existing CEC
8 under A.R.S. § 40-252. The Company's approach would appear to be, at least in part, in response
9 to the potential perception and/or actions of the investment community should the CEC lapse or
10 the project be abandoned.

11 7. The request for the Extension pertaining to the transmission line approved in
12 Decision No. 64626 is being requested to coincide with that of the power plant, but with the
13 additional consideration that the route for the line may have to be altered. This route change is
14 being contemplated in order to satisfy new requirements from the State Land Department ("SLD").
15 The SLD has changed its policies such that it is now requiring transmission lines to be sited along
16 section lines. Bowie is currently working with the SLD on this issue.

17 8. Staff has reviewed the Extension and the Company's rationale for the Extension.
18 The Company's Self-Certification letter dated December 29, 2007, indicates that Bowie is in
19 compliance with all requirements of Decision Nos. 64625 and 64626 up to this point in time.

20 9. Staff believes that the Company's position in possibly changing the generation
21 technology from a gas-fired plant to a clean coal technology may have some merit and may be
22 reasonable given the market conditions and the volatility in gas prices experienced recently.
23 However, Staff is also cognizant of significant environmental impacts of IGCC technology. IGCC
24 allows for separation of carbon dioxide ("CO₂") from the gas stream.

25 10. It is not known to Staff how Bowie would deal with the global warming related
26 pollutant CO₂. Therefore, Staff believes that the Company should file an application for a new and
27 separate CEC for the IGCC plant.

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1 11. In addition, due to the fact that the Company has not made the decision to
2 completely abandon the construction of the plant approved in Decision No. 64625, Staff
3 recommends that the Company be granted an extension of time to construct the 1,000 MW gas-
4 fired combined cycle plant. Since the construction of this plant has not yet commenced and the
5 Company has not yet filed its application for a new CEC for the IGCC plant, Staff recommends
6 that the expiration date for CEC granted by Decision No. 64625 be extended to December 31,
7 2010. This will allow the Company sufficient time to either construct the 1,000 MW plant or
8 process a new CEC application for the 560 MW IGCC plant.

9 12. If the Company does file an application for a new CEC for the IGCC plant and such
10 a CEC is approved by the Commission, Staff further recommends that the CEC issued in Decision
11 No. 64625 become null and void upon issuance of the CEC for the new IGCC plant.

12 13. Another reason Staff is recommending approval of the CEC extension for the power
13 plant is the presumption of need, as for the Gila Bend Power Partners Project (Decision No.
14 69177) that was recently approved by the Commission.

15 14. According to the 2006 Western Electricity Coordinating Council Power Supply
16 Assessment, the Desert Southwest could be deficient in planned reserve margins as early as 2008.
17 It is postulated by some parties that over the next two to three years the Arizona utilities are likely
18 to fully grow into the currently idled capacity or low capacity factor energy production of new gas
19 fired generation constructed in Arizona since 2001. This is substantiated by the fact that Arizona
20 Public Service Company and Salt River Project both have Requests for Proposals pending for new
21 base load generation of 1,000 MW by the end of this decade.

22 15. There also appears to be a growing regional short term need for access to new
23 resources being developed in the Desert Southwest. This need has been underscored by the
24 discontinued operation of the Mohave Power Plant in southern Nevada.

25 16. The Bowie generation project is but one of 8 gas fired power plants with an
26 authorized CEC approved by the Commission that have not been constructed. Those 8 plants total
27 5,575 MW in capacity. While the market needs for these plants are soft and ill-defined at the
28 present time, there are signs that the industry is on the cusp of renewed interest in quick, short

term, generation fixes for which these plants are well suited. All of these considerations seem to substantiate the presumption of possible need for the Bowie plant and other similar gas fired plants within the next five years.

17. As stated earlier, Decision No. 64626 approved the CEC for the transmission line associated with the Bowie generating station. This power plant cannot connect to the grid without the associated transmission line. Therefore, for the reasons stated above, Staff recommends that the CEC granted by Decision No. 64626 also be extended such that it would expire on December 31, 2010.

18. Since the CECs issued by Decision No. 64625 and 64626 were originally issued, subsequent CECs for power plants and lines have contained additional conditions that are not part of the CECs for the Bowie project. Therefore, Staff recommends that if the Commission grants the time extensions for the Bowie project as recommended by Staff, that it also add the following conditions:

For the Bowie power plant –

- A. Applicant shall participate in Arizona subregional transmission planning forums such as SWAT (Southwest Area Transmission) and SATS (Southeast Area Transmission Study) on a regular basis and participate in each Biennial Transmission Assessment performed by the Commission.
- B. Applicant shall document in its annual self-certification letter all steps taken in the previous year to seek a contract for capacity and energy production out of its plant. This should include participation in any and all generation adequacy or planning workshops or assessments sponsored by the Commission.
- C. In extending the expiration date of the Certificate, the Commission considers the Certificate to be a package of inter-related requirements and conditions that must all remain in force in order to merit Commission approval. If the Applicant, its successor(s) or assignee(s) pursue a legal challenge of any condition herein, the authority to construct facilities granted by this Commission Decision shall be revoked and the Certificate rendered null and void in its entirety without further order of the Commission.

For the Bowie transmission line –

- A. Applicant shall annually file ten year plans with the Commission in accordance with A.R.S. § 40-360-2.A., participate in subregional transmission planning forums

such as SWAT and SATS on a regular basis, and participate in each Biennial Transmission Assessment performed by the Commission.

- B. In extending the expiration date of the Certificate, the Commission considers the Certificate to be a package of inter-related requirements and conditions that must all remain in force in order to merit Commission approval. If the Applicant, its successor(s) or assignee(s) pursue a legal challenge of any condition herein, the authority to construct facilities granted by this Commission Decision shall be revoked and the Certificate rendered null and void in its entirety without further order of the Commission.

19. Based on Staff's analysis of the request to extend the CEC for the Bowie power plant, Staff recommends that:

- A. the expiration date of the CEC approved in Decision Nos. 64625 be extended to December 31, 2010,
- B. if the Company wishes to pursue the construction of a new IGCC power plant, that it be required to submit an application with the Arizona Power Plant and Transmission Line Siting Committee for a new CEC instead of a request, pursuant to A.R.S. § 40-252, for an amendment to Decision No. 64625,
- C. the CEC granted by Decision No. 64625 become null and void upon the issuance of a CEC for a new IGCC power plant,
- D. if the expiration date for the CEC for the Bowie power plant granted by Decision No. 64625 is extended, that the following conditions be added to those already contained in Decision No. 64625 –
- a. Applicant shall participate in Arizona subregional transmission planning forums such as SWAT and SATS on a regular basis and participate in each Biennial Transmission Assessment performed by the Commission,
- b. Applicant shall document in its annual self-certification letter all steps taken in the previous year to seek a contract for capacity and energy production out of its plant. This should include participation in any and all generation adequacy or planning workshops or assessments sponsored by the Commission,
- c. In extending the expiration date of the Certificate, the Commission considers the Certificate to be a package of inter-related requirements and conditions that must all remain in force in order to merit Commission approval. If the Applicant, its successor(s) or assignee(s) pursue a legal challenge of any condition herein, the authority to construct facilities granted by this Commission Decision shall be revoked and the Certificate rendered null and void in its entirety without further order of the Commission.

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20. Based on Staff's analysis of the request to extend the CEC for the Bowie transmission line, Staff recommends that:

- A. the expiration date of the CEC approved in Decision Nos. 64626 be extended to December 31, 2010,
- B. if the expiration date for the CEC granted by Decision No. 64626 is extended, that the following conditions be added to those already contained in Decision No. 64626
 - a. Applicant shall annually file ten year plans with the Commission in accordance with A.R.S. § 40-360-2.A., participate in subregional transmission planning forums such as SWAT and SATS on a regular basis, and participate in each Biennial Transmission Assessment performed by the Commission.
 - b. In extending the expiration date of the Certificate, the Commission considers the Certificate to be a package of inter-related requirements and conditions that must all remain in force in order to merit Commission approval. If the Applicant, its successor(s) or assignee(s) pursue a legal challenge of any condition herein, the authority to construct facilities granted by this Commission Decision shall be revoked and the Certificate rendered null and void in its entirety without further order of the Commission.

21. Staff's recommendations as contained in Findings of Fact Nos. 19 and 20 are reasonable and should be adopted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the Bowie Power Station, LLC and the subject matter contained herein pursuant to Article XV of the Arizona Constitution and A.R.S. § 40-252 and § 40-360 et seq.

2. Notice of the proceeding has been given in the manner prescribed by law.

3. Amending Decision Nos. 64625 and 64626 as set forth herein is in the public interest in balancing the need for the projects with their impact on the environment and ecology of the state.

ORDER

IT IS THEREFORE ORDERED that Decision No. 64625, approving a Certificate of Environmental Compatibility for Bowie Power Station, LLC to construct and operate a 1,000

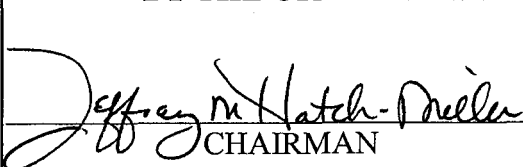
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megawatt natural gas-fired power generation plant is hereby amended as outlined in Finding of Fact No. 19.

IT IS FURTHER ORDERED that Decision No. 64626, approving a Certificate of Environmental Compatibility for Bowie Power Station, LLC to construct and operate a 345 kV and 345 kV/230 kV switchyards, a 345 kV double-circuit transmission line and a 230 kV interconnection and related facilities is hereby amended as outlined in Finding of Fact No. 20.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRMAN

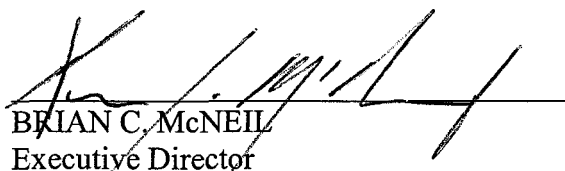

COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 20th day of February, 2007.


BRIAN C. McNEIL
Executive Director

DISSENT: _____

DISSENT: _____

EGJ:PKB:tdp\KT

1 SERVICE LIST FOR: Bowie Power Station, LLC
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